THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

Writ Petition No.22886 of 2001

(per the Hon'ble Sri Justice T.Ch.Surya Rao)

Dated 06-11-2006

Between:

Kumkulla Laxmibai ..
Petitioner

and

The State of A.P., represented
by the Mandal Revenue Officer,
Vijayawada Urban, Vijayawada,
Krishna District ..
Respondent

THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

Writ Petition No.22886 of 2001

ORDER: (per the Hon'ble Sri Justice T.Ch.Surya Rao)

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The instant writ petition has been filed assailing the judgment dated 10-03-1998 passed by the learned Special Court under the A.P. Land Grabbing (Prohibition) Act in L.G.A.No.71 of 1997.

The petitioner is the appellant in L.G.A.No.71 of 1997. The respondent-State filed, earlier, L.G.O.P.No.255 of 1988 on the file of the Special Tribunal-cum-District Judge, Krishna at Machilipatnam. After a full-fledged enquiry, the learned Special Tribunal by its judgment dated 18-03-1997 allowed the petition directing the writ petitioner and her husband to vacate the property in dispute within three months from the date of the order. In the appeal, filed by the petitioner and her husband, having been aggrieved by the said judgment of the Special Tribunal, the learned Special Court concurred with the findings given by the Special Tribunal.

The facts are simple. The land in dispute stands registered in

the revenue records as canal poramboke. The case of the State was that the petitioner and her husband occupied the said poramboke in an extent of 128 square yards covered by R.S.No.269 of Gundala village. The petitioner and her husband while resisting the application took up the plea that they raised the hut about more than thirty years back and thereby they perfected the title by means of adverse possession. The learned Special Tribunal framed as many as five issues as under:

"1. Whether the petitioner has title to the petition schedule property?
2. Whether the respondent acquired title by adverse possession?
3. Whether the petitioner is estopped to contend that the respondent is an encroacher?
4. Whether the respondent is a land grabber?
5. To what relief."

At the time of enquiry, two witnesses were examined on the side of the applicant and respondent herself examined as R.W.1. The documents, Exs.A1 to A3, clearly show that the land in dispute was covered by R.S.No.269 and stood registered as canal poramboke, occupied by the petitioner and her husband. To rebut this evidence, one of the respondents in the O.P. was examined, but no documentary evidence was produced. As can be seen from the entries made in the revenue records, the applicant proved its title. The respondents, having taken the plea of adverse possession, failed to discharge the burden cast upon them. No evidence worth the name, except the *ipsi dixit* of one of the respondents, which again is a self-serving statement, has been produced. The learned Tribunal rightly, therefore, repelled the contention of the respondents and answered all the issues in favour of the State. The learned Special Court too concurred with the said findings.

It is sought to be contended before us that there are several encroachments on the canal poramboke lands and the State

discriminated against the petitioner and her husband, leaving others. There is no evidence on record to show that the State failed to take action against the other encroachers. When the land is obviously shown as canal poramboke, the encroachment becomes objectionable and shall have to be removed in the interest of the general public.

It appears, after the disposal of the case, the writ petitioner made a representation, dated 02-12-1998, to the State to regularize the encroachment, after collecting the market value thereof as in the case of others and that application is still pending consideration and no orders have been passed nor communicated to the petitioner. That cannot detain us from passing the necessary orders in the instant writ petition on merits. There is nothing to consider the request of the petitioner, who squarely pleaded the plea of adverse possession thereby conceding the title of the State. Therefore, we see no compelling reasons to interfere with the impugned order passed by the learned Special Court. While parting with, we direct the respondent-State to consider the representation dated 02-12-1998 and pass appropriate orders thereof. If the State feels that the encroachment is objectionable and cannot be regularized, it may even consider providing alternative site, if available, to the petitioners.

The writ petition is dismissed with the said observation. No order as to costs.

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T.CH.SURYA RAO, J.

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G.CHANDRAIAH, J.

06th November, 2006.

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